

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-3634

Laurence Robert Otto,

Appellant,

v.

United States of America,

Appellee.

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* Appeal from the United States

* District Court for the

* District of Minnesota.

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* [UNPUBLISHED]

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Submitted: January 31, 2000

Filed: February 3, 2000

Before RICHARD S. ARNOLD, BOWMAN, and BEAM, Circuit Judges.

PER CURIAM.

Laurence R. Otto, who was convicted of possessing an unregistered sawed-off rifle in violation of 26 U.S.C. § 5861(d), see United States v. Otto, 64 F.3d 367, 369-71 (8th Cir. 1995), cert. denied, 516 U.S. 1133 (1996), appeals the district court's¹ order denying his second 28 U.S.C. § 2255 motion. Having reviewed the record, we conclude the district court correctly denied Otto's motion because he did not request and obtain this court's authorization prior to filing it. See 28 U.S.C. §§ 2255,

¹The Honorable James M. Rosenbaum, United States District Judge for the District of Minnesota.

2244(b)(2), (3). We nevertheless observe that Eighth Circuit precedent precludes Otto from being successful on his claim that his section 5861(d) conviction was unconstitutional under United States v. Lopez, 514 U.S. 549 (1995). See United States v. Hall, 171 F.3d 1133, 1142 (8th Cir. 1999) (Congress had authority under taxing clause to enact § 5861(d) and criminalize possession of unregistered firearm). Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.